

Net quantity, date indications and storage conditions: Further reading

Net quantity

The FIC

The general mandatory requirement for prepacked foods, intended for final consumers or for supply to caterers, to be marked with a net quantity is detailed in various Articles of the EU Food Information to Consumers [Regulation](#).

- Article 9 makes 'the net quantity of the food' one of the mandatory particulars;
- Article 11 states that Article 9 applies without prejudice to more specific EU legislation on weights and measures;
- Article 23 gives the units which may be used for the indication: litres, centilitres, millilitres, kilograms or grams as appropriate; the Article also stipulates the use of units of volume for liquids and of mass for other products, and references Annex IX for further technical rules;
- Article 42 allows Member States to maintain national measures requiring expressions of net quantity to be given for specified foods in a different manner than laid down in Article 23. Such national measures must have been adopted before 12 December 2011 and notified to the Commission by 13 December 2014;

Annex IX of the Regulation details foods for which a net quantity declaration is not mandatory. These are foods:

- which are subject to considerable losses in their volume or mass and which are sold by number or weighed in the presence of the purchaser (these are so-called desiccating products: further advice on the application of this exemption may be sought from weights and measures inspectors);
- the net quantity of which is less than 5 g or 5 ml (except for spices and herbs);
- normally sold by number, provided that the number of items can clearly be seen and easily counted from the outside or, if not, is indicated on the labelling.

It is by virtue of this third bullet point that prepacked foods such as flour confectionery, sandwiches, eggs, meat pies and bread rolls are not required to carry a net quantity declaration and are generally marked with a number if the items cannot be clearly counted when the food is in its unopened state.

Further provisions of Annex IX concern prepacked sales units containing more than one pack:

- Where such a unit contains two or more inner packs containing the same quantity of the same product, the net quantity declaration should comprise the quantity of an individual inner pack and the number of such inner packs (e.g. '9 x 20g'), unless this information can be clearly seen from the outside;
- Where such a unit contains two or more inner packs which are not regarded as units of sale (e.g. a complete curry meal with individual packs of meat in sauce, rice and naan bread), the net quantity declaration should comprise the total net quantity and the total number of individual packages.

Where a solid food is presented in certain types of liquid media which are used merely as an adjunct to the essential elements of the food and thus are not decisive for the purchasing decision, the drained net weight of the food should be indicated as well as the total net weight (e.g. a can of gooseberries in light syrup will be marked with a drained weight as well as a net weight). The types of liquid media specified are water, aqueous solutions of salts, brine, aqueous solutions of food acids, vinegar, aqueous solutions of sugars, aqueous solutions of other sweetening substances, and fruit or vegetable juices in the case of fruit or vegetables. This provision applies also where the liquid medium is frozen.

Where a food has been glazed, the declared net weight should be exclusive of the glaze: the repercussions of this requirement in the context of the overall provision on net quantity declarations for foods in liquid media are discussed in section 2.12.2 of the Commission's [Questions and Answers](#) on the application of the Regulation (EU) N° 1169/2011 on the provision of food information to consumers.

The Weights and Measures (Food) (Amendment) Regulations 2014 (SI 2014, No. 2975)

These Regulations were necessitated by the coming into application of the FIC quantity declaration controls for prepacked foods intended for consumers or caterers. They:

- have revoked any provisions in national law that conflicted or overlapped with these directly applicable FIC controls (unless directly derived from other specific EU laws or permitted in accordance with Article 42 of the FIC which allows for certain national provisions to be maintained¹) and
- provide for enforcement of quantity labelling aspects of the FIC under the Weights and Measures Act 1985, which has two effects:

¹ The amending Regulations have introduced a newly-worded Article 3(2) into the Weights and Measures (Miscellaneous Foods) Order 1988 continuing to require all honey to be marked with net weight rather than volume (unless sold loose or in a quantity of less than 5g). This is the only provision of this Order which applies to prepacked foods which are within the scope of the FIC: it is a national measure permitted under Article 42 of the FIC. This retains the status quo for honey and avoids doubt over whether liquid honey should be marked with a weight or a volume. There is nothing to prevent an indication of quantity by volume being given as well as one by weight.

- the ultimate enforcement mechanism for these aspects is therefore criminal proceedings rather than the issuing of Improvement Notices
- the law will continue to be enforced by Local Weights and Measures Authorities as part of Local Authorities Trading Standards Services.

In detail, any provisions in the Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruit and Vegetables, Meat and Poultry) Order 1984 (SI 1984/1315) and the Weights and Measures (Miscellaneous Foods) Order 1988 (SI 1988/2040) which applied to prepacked foods within the scope of the FIC have been revoked. As a consequence, as far as food in packaging is concerned, the above Orders now apply only to products:

a) made up for direct sale (within the meaning of Article 2(2)(e) of the FIC Regulation) by way of retail; and/or

b) made up in advance ready for retail sale in an open container.

Products packaged in this way are outside the scope of the FIC. The expression 'pre-packed' when used in these Orders now only refers to the above two types of products. The Orders now only apply to these types of packaged foods, foods sold loose, and relevant wholesale transactions, all of which are outside the scope of the FIC. The changes to the Orders have removed provisions on FIC-defined 'prepacked foods' from their scope, but have not extended the scope of the Orders in relation to their coverage of food sold loose, or in the forms described under a) and b) above. This maintains the status quo for food sold in these ways pending a review of the remaining food quantity labelling requirements, which the National Measurement Office intends to carry out in 2015.

The scope of the Weights and Measures (Intoxicating Liquor) Order 1988 is amended so that the volume labelling requirements no longer apply to pre-packed foods subject to the directly applicable FIC quantity labelling requirements.

As well as amendments to the above Orders, the Weights and Measures (Food) (Amendment) Regulations 2014 amended the Weights and Measures (Packaged Goods) Regulations 2006 ([SI 2006, No. 659](#)), which contain the average weight controls for foods prepacked to a predetermined constant quantity. These Regulations implement in Great Britain Council Directive 76/211/EEC, the quantity marking provisions of which are not prejudiced by the FIC. Therefore, when foods prepacked to a predetermined constant quantity are e marked, the quantity marking rules of the 2006 Regulations, most notably the minimum size requirements for the marking, continue to apply. When foods prepacked to a predetermined constant quantity are not e marked, the 2014 amendment Regulations have disappplied the quantity marking rules of the 2006 Regulations in favour of those in the FIC.

The 2014 amendment Regulations also repealed Schedule 6 of the Weights and Measures (Packaged Goods) Regulations 2006. This Schedule placed certain foods, when sold in small predetermined quantities, outside the scope of the 2006 Regulations and hence allowed them to be sold without a weight indication. Examples of such exempted quantities and foods were:

- below 50g – biscuits, chocolate products and chocolate confectionery, sugar confectionery
- below 25g – potato crisps and similar snacks, herbs and spices

These exemptions are not compatible with the FIC.

Predetermined quantities of sugar prepacked at less than 20g remain exempt from quantity indications as this is permitted under the terms of Council Directive [2001/111/EC](#) relating to certain sugars intended for human consumption.

Guidance on The Weights and Measures (Food) (Amendment) Regulations 2014

The Department for Business Innovation & Skills (BIS) has produced [guidance](#) on the 2014 amending Regulations. This contains a Table making it clear which quantity marking regimes apply to which food product categories. This is reproduced below:

Product Categories				
Applicable Requirements	Regulation (EU) No 1169/2011 on the provision of food information to consumers (FIC)	Must comply with FIC quantity labelling requirements.	Must comply with FIC, but also subject to more specific rules on quantity labelling under PGR. Where there is a conflict PGR applies.	N/A
	Weights and Measures (Packaged Goods) Regulations 2006 <i>as amended</i>	Must comply with PGR requirements except the quantity labelling requirements.	Must comply with PGR requirements.	N/A
	Weights and Measures (Miscellaneous Foods) Order 1988 <i>as amended</i>	Only in relation to pre-packed honey where it must be marked with net weight.	N/A	Must comply with the requirements of the Miscellaneous Foods Order.
	Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order 1984 <i>as amended</i>	N/A	N/A	Must comply with the requirements of the Weights and Measures (Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry) Order.
	Weights and Measures (Intoxicating Liquor) Order 1988 <i>as amended</i>	Must comply with the requirements of the 1988 Order except the quantity labelling requirements in Article 6.	Must comply with the requirements of the 1988 Order.	Must comply with the requirements of the 1988 Order.

BIS has also made available consolidated versions of the Orders and Regulations amended by the 2014 amendment Regulations (and by earlier amendments). Links to these consolidated versions are as follows:

[**The Weights and Measures Act 1963 \(Cheese, Fish, Fresh Fruits and Vegetables, Meat and Poultry\) Order 1984**](#)

[**The Weights and Measures \(Miscellaneous Foods\) Order 1988**](#)

[**The Weights and Measures \(Intoxicating Liquor\) Order 1988**](#)

[**The Weights and Measures \(Packaged Goods\) Regulations 2006**](#)

Date Indications

Under Article 24(1) of the FIC, food marked with a use by date is deemed to be unsafe once the stated date has passed. As such, a food safety offence has been committed when food is on the market with an expired use by date. In England the offence is under the Food Safety and Hygiene (England) Regulations 2013 (as amended), in Wales and Scotland it is under the General Food Regulations 2004 (as amended), and in Northern Ireland it is under the General Food Regulations (Northern Ireland) 2004 (as amended).

In September 2011, the Department for Environment, Food and Rural Affairs published [*Guidance on the application of date labels to food*](#).